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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,887	08/01/2003	Joanne L. Clowes	MS1-1367US	3041
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER HOFFMAN, BRANDON S	
			ART UNIT 2136	PAPER NUMBER
			NOTIFICATION DATE 05/08/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/632,887

Applicant(s)

CLOWES, JOANNE L.

Examiner

Brandon S. Hoffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15 and 27-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2-12-07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-8, 10-15, and 27-37 are currently pending in this office action, claims 9 and 16-26 are canceled, and claims 27-37 are newly added.

2. Applicant's arguments, filed March 5, 2007, have been fully considered but they are not persuasive.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the claims cite computer-readable tangible media, whereas the specification does not provide antecedent basis for computer-readable tangible media.

Claim Rejections

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

5. Claims 32, 33, 36, and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

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matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no description of what a tangible computer-readable media can be in the specification.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32, 33, 36, and 37 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 32 and 36 are not limited to tangible embodiments. In view of applicants' disclosure, specification page 31, line 19, through page 32, line 9, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., RAM, ROM, flash memory) and intangible embodiments (e.g., carrier waves). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Claims 33 and 37 are dependent upon claims 32 and 36 and therefore inherit their deficiencies.

Claim Rejections - 35 USC § 102

7. Claims 1-8, 10-15, and 27-37 are rejected under 35 U.S.C. 102(e) as being unpatentable by Whitten et al. (U.S. Patent Pub. No. 2003/0182574).

Regarding claim 1, Whitten et al. teaches an apparatus comprising:

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- **One or more processors** (fig. 2, ref. num 200);
- **Memory** (fig. 2, ref. num 208);
- A media including game content (fig. 1, ref. num 108); and
- A data protection portion including a file system alteration checking portion, **stored in the memory and executable on one or more processors**, that protects the apparatus from modification of the game content by determining whether the game content has been modified, **wherein the data protection portion includes a file signature checking portion for checking whether the file signature is as expected for the media that has not been modified** (paragraph 0060, 0064), and
- If the game content has been modified, then the use of the game content within the apparatus fails (paragraph 0009, 0011).

Regarding claim 2, Whitten et al. teaches wherein the media includes a removable media that is removable from the apparatus (paragraph 0027).

Regarding claim 3, Whitten et al. teaches wherein the removable media includes an optical disk (paragraph 0007).

Regarding claim 4, Whitten et al. teaches wherein the removable media includes a digital video disk (paragraph 0027).

Regarding claim 5, Whitten et al. teaches wherein the apparatus includes a game console (paragraph 0027).

Regarding claim 6, Whitten et al. teaches wherein the data protection portion includes a media type checking portion for checking whether the type of the media is as expected for media that has not been copied (paragraph 0051).

Regarding claim 7, Whitten et al. teaches wherein the media type checking portion reduces the possibility of copying the game content from a pressed disk to an end user writable disk (paragraph 0058).

Regarding claim 8, Whitten et al. teaches wherein the data protection portion checks the entire file to ensure that the media has not been invalidated (paragraph 0057-0059).

Regarding claim 10, Whitten et al. teaches wherein a signature check is performed on files as they are accessed (paragraph 0062).

Regarding claim 11, Whitten et al. teaches wherein the data protection portion checks the contents of a file as it is opened (paragraph 0063).

Regarding claim 12, Whitten et al. teaches wherein the file system alteration checking portion allows sector level validation rather than file level validation (paragraph 0062).

Regarding claim 13, Whitten et al. teaches wherein the game content is stored in a game console specific format (paragraph 0025, 0027).

Regarding claim 14, Whitten et al. teaches wherein the media content includes non-game content (paragraph 0032-0035).

Regarding claim 15, Whitten et al. teaches wherein the non-game content is stored in a non-game console specific format (paragraph 0032-0035).

Regarding claim 27, Whitten et al. teaches a method comprising:

- Providing a media comprising media content, wherein the media content comprises at least one of game content and non-game content (fig. 1, ref. num 108 and paragraph 0027);
- Examining the media content for modifications (fig. 4-7), the examining comprising:
 - Comparing an actual signature of the media content with an expected signature of the media content (fig. 5, ref. num 438 and fig. 6, ref. num 440); and

- Launching the media content based on the examining (fig. 7, ref. num 462).

Regarding claim 28, Whitten et al. teaches wherein the media content includes game content is stored in a modified Universal Disk Format (UDF), the game content within the media content is stored in a different format and the modified UDF references location of the game content on the media (paragraph 0027, DVD format uses UDF).

Regarding claim 29, Whitten et al. teaches wherein the media content includes a media type definition to determine authenticity of the media, and wherein the media content fails to launch if the media does not match the media type definition (fig. 6, ref. num 442).

Regarding claim 30, Whitten et al. teaches wherein the media content includes non-game content and game content, and wherein the non-game content may be accessed by either a game console or a non-game console (paragraph 0027).

Regarding claim 31, Whitten et al. teaches wherein the comparing further comprises:

- Checking an actual signature of an executable file in the media content with an expected signature of the executable file (fig. 5, ref. num 438 and fig. 6, ref. num 440); and

- Confirming an actual signature of a cluster of sectors in the media containing the media content with an expected signature of the clusters of sectors (fig. 7, ref. num 452-456).

Regarding claim 32, Whitten et al. teaches a computer-readable tangible media comprising computer-readable instructions for implementing the computerized method of:

- Verifying whether a provided media comprising media content conforms to a stored media type definition (fig. 5, ref. num 428, 430);
- Examining the media content based on an actual and an expected signature of the media content (fig. 5, ref. num 438 and fig. 6, ref. num 440); and
- Running the media content from the provided media if the provided media conforms to the stored media type definition and if the actual signature of the content matches the expected signature of the content (fig. 7, ref. num 462).

Regarding claim 33, Whitten et al. teaches wherein the examining further comprises:

- Identifying a cluster of sectors of the provided media containing media content (fig. 7, ref. num 452); and
- Comparing an actual signature for the cluster of sectors with an expected signature for the cluster of sectors (fig. 7, ref. num 454).

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Regarding claim 34, Whitten et al. teaches a method comprising:

- Copying files from a provided media to a memory (fig. 1, ref. num 108, data on the medium has to be copied into RAM in order to be executed by the processor);
- Checking actual formats and actual signatures of the files when accessed from the memory with expected formats and expected signatures of the files (fig. 5, ref. num 438 and fig. 6, ref. num 440); and
- Launching the files if the actual formats and the actual signatures match the expected formats and the expected signatures (fig. 7, ref. num 462).

Regarding claim 35, Whitten et al. teaches wherein if the files have been previously accessed and the actual formats and the actual signatures matched the expected formats and the expected signatures, then the files are rendered accessible without the need to check the actual formats and the actual signatures with the expected formats and the expected signatures (fig. 2, ref. num 210, 212).

Regarding claim 36, Whitten et al. teaches a computer-readable tangible media comprising computer-readable instruction for implementing the computerized method of:

- Verifying authenticity of a provided media based on media type definition stored in game console executable files in the provided media (fig. 6, ref. num 442);

- Matching actual signatures of the game console executable files with expected signatures of the game console executable files if the authenticity of the provided media is verified (fig. 5, ref. num 438 and fig. 6, ref. num 440);
- Executing the game console executable files if the actual signatures match the expected signatures (fig. 7, ref. num 450);
- During execution of the game console executable files, requesting game content data files to be loaded (fig. 7, ref. num 452);
- Comparing actual signatures of the game content data files with expected signatures of the game content data files (fig. 7, ref. num 454-456); and
- Launching game content on the provided media if the actual signatures of the game content data files match the expected signatures of the game content data files (fig. 7, ref. num 462).

Regarding claim 37, Whitten et al. teaches wherein the comparing comprises checking whether actual signatures of clusters of sectors containing the game content data files match expected signatures of the clusters of sectors (fig. 7, ref. num 452-456).

Response to Arguments

8. Applicant argues that Whitten et al. does not teach checking validity of game software based on comparing actual and expected file signatures (page 13).

Regarding applicant's argument, examiner disagrees. Whitten et al. teaches in the flowcharts (figure 4-7), that a signature, or digest is created for data sections (fig. 4, ref. num 404). These digests are encrypted with a header of the data (fig. 4, ref. num 410-412) and decrypted (fig. 5, ref. num 436). At step 438 and 440, the stored digest (signature) is compared against a computed digest to determine if the digests match (paragraph 0057). Based on the comparison, the console either allows the game content or prevents the game content.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon S. Hoffman whose telephone number is 571-272-3863. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser G. Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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